

### **REMARKS**

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

#### **Disposition of Claims**

Claims 1-10 were pending this application. By way of the Reply to Restriction Requirement of October 30, 2003, claims 7 and 8 were elected for continued prosecution without traverse and claims 1-6, 9, and 10 were canceled. By way of the Reply of April 19, 2004, claims 7 and 8 have been canceled without prejudice or disclaimer and claims 11-16 have been added. By way of this Reply, claims 12 and 15 have been canceled without prejudice or disclaimer. Accordingly, claims 11, 13, 14, and 16 are now pending in this application. Claims 11 and 14 are independent. The remaining claims depend, directly or indirectly, from claims 11 and 14.

#### **Claim Amendments**

Claims 11 and 14 have been amended in this reply to incorporate the subject matter of claims 12 and 15, respectfully. The amendments are fully supported by, for example, the descriptions on page 3, line 32, through page 4, line 3 of the original specification. In addition, claims 13 and 16 have amended to correct antecedent basis issues results from amendments to claims 11 and 14, respectively. No new matter has been added in this reply. Further, the Applicant respectfully asserts that the aforementioned amendments do not require an additional prior art search.

**Objection(s)**

The drawings were objected to for not showing every feature recited in the claims. In this Reply, new Figure 11 has been added. New Figure 11 shows the billing system recited in claim 14 and was obtained by incorporating the billing server in the billing system shown in Fig. 1 based on the descriptions, for example, on page 20, line 34 through page 21, line 3 of the original specification. This amendment is fully supported by the original specification and original drawings. No new matter has been added by the amendment. In view of the above, withdrawal of this objection is respectfully requested.

**Rejection(s) under 35 U.S.C § 112**

Claims 11-16 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 11 and 14 have been amended in this Reply to clarify the present invention recited. Also, Applicant respectfully submits that the term "permission information" is explicitly described, for example, on page 3, line 32 through page 4, line 7 of the original specification. As is apparent from the description, the permission information permits the server terminal, which has received the permission information, to distribute the service program to other terminals. As recited in the specification, the permission information corresponds to the number of the other terminals to which the server terminal may distribute the server program. Accordingly, withdrawal of this rejection is respectfully requested.

In addition, the Examiner asserted that “a billing server recited in claim 14 is not clearly defined in the descriptive portion of the specification, *e.g.*, page 8, lines 4-10, nor correlated with the Drawings.” Applicant respectfully disagrees and submits that the billing server recited in claim 14 is explicitly described in the original specification, for example, on page 20, line 34 through page 21, line 3. The concept of the present invention as recited in amended claim 14 is based on an expanded client/server model wherein one of terminals includes functionality to operate as a server (*i.e.*, a server terminal) for the other terminals in order to distribute a service program transferred from the server (10) (*See* Original specification, page 6, line 31 through page 7, line 17). As recited in amended claim 14, the server terminal can distribute the server program to other terminals based on the permission information (discussed above). (*See* Original specification, page 7, line 32 through page 8, line 2.) Upon receiving the program, each of the terminals (including the server terminal) notifies a billing server to charge the terminal for the receipt of the service program. The billing server subsequently executes one or more billing services in response to the notification. (*See* Original specification, page 20, line 34, through page 21, line 3). In view of the above, the term “billing server” is clearly defined in the specification. Accordingly, withdrawal of this rejection is respectfully requested.

**Rejection(s) under 35 U.S.C § 103**

Claims 11-16 stand rejected under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent 6,047,051 (“Ginzboorg”). Claims 12 and 15 have been cancelled in this Reply. Thus, this rejection as it applies to these claims is now moot. Independent claims 11 and 14 have been amended in this Reply to clarify the present invention recited. Accordingly,

to the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

Independent claim 11 recites a scheme for charging for distributions of a service program on a network system. As shown in Fig. 1, for example, a billing system of the present invention includes a server 10 storing a service program 41, a server terminal 20, and a plurality of terminals 30. The server terminal 20, which is originally one of terminals 30, is entitled to distribute to other terminals 30, the service program 41 transferred from the server 10 based on permission information. As discussed above, the permission information, which is transferred together with the service program 41 from the server 10, corresponds to the number of other terminals 30 to which the service program 41 may be distributed. The server 10 subsequently charges the server terminal 20 for all the distributions to each of the other terminals 30.

In particular, amended independent claim 11 includes the following limitations: (i) a server for sending a service program and permission information regarding a number of other terminals permitted to receive the service program over a communication network in response to a predetermined request, and (ii) wherein the server charges the server terminal for the number of other terminals permitted to receive the service program.

Ginzboorg does not teach or suggest at least the above limitations recited in amended independent claim 11. Ginzboorg merely discloses a scheme of centralized charging for using multimedia services. Specifically, Ginzboorg does not teach or suggest transferring any program from a server to a server terminal, wherein the server terminal includes functionality to decide which terminals to forward the service program to. Further, none of the customer terminals CT disclosed in Ginzboorg include functionality to operate

as a server terminal. In fact, each of the customer terminals CT disclosed in Ginzboorg appears to be nothing more than a graphical user interfaces with functionality to surf the Internet. Further, although a gateway computer GW shown in Fig. 3b is interposed between a customer terminal CT and the server SP, the gateway computer GW does not include functionality to receive and process the permission information (*See* Ginzboorg, col. 7, lines 13-21). Rather, the gateway computer GW shown in Ginzboorg merely acts as a router passing information from the customer terminal CT to the server SP. Thus, Ginzboorg fails to show or suggest a server terminal as recited in amended independent claim 11.

Even assuming *arguendo* that the gateway computer GW recited in Ginzboorg corresponds to the server terminal recited in amended independent claim 11, Ginzboorg fails to teach or suggest sending permission information as recited in amended independent claim 11. Specifically, the only information passed to the gateway computer GW is the information corresponding to the service requested by the customer terminal CT.

Moreover, the Applicant respectfully asserts that the invention as recited in amended independent claim 11 is not rendered obvious by Ginzboorg because Ginzboorg teaches away from the invention as recited in amended independent claim 11. Specifically, Ginzboorg describes a system that requires maintaining communication between the server SP and the customer terminal CT. As the number of customer terminals increases, the load on the server SP necessarily increases (*See* Ginzboorg, col. 7, lines 13 though line 36). In contrast, the invention as recited in the amended independent claim 11, is designed to decrease the load on the server SP by using one or more server terminals (*See* Original specification, pages 1 and 2).

In view of the above, Ginzboorg fails to show or suggest the present invention as recited in amended independent claim 11. Thus, amended independent claim 11 is patentable over Ginzboorg. Amended independent claim 14 is allowable for at least the same reasons. Further, amended dependent claims 13 and 16 are allowable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

In addition, Ginzboorg fails to teach or suggest forwarding a service program to terminal, wherein the service program includes a server program that enables the terminal to operate as a server terminal. Accordingly, amended dependent claims 13 and 16 are patentable for this additional reason.

In addition, the Applicant respectfully disagrees with the Examiner's position in this Official Notice. Specifically, the Examiner's description of the meaning of the term "permission information" is inconsistent with the manner in which the term is used in the specification as discussed above. Accordingly, the Applicant respectfully requests the Examiner to withdraw Official Notice of the definition term "permission information" and use the definition discussed above.


## Conclusion

These above amendments and remarks are believed to require no further prior art search or, at least, simplify issues for appeal. Accordingly, entry and favorable consideration is respectfully requested. Further, Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 04730.002001).

Respectfully submitted,

Date: \_\_\_\_\_

*10/20/04*



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IN THE DRAWINGS:

Please add new Figure 11 as shown in the enclosed replacement sheets. Also, Applicant submits that the replacement sheet is formal and encloses a separate letter to the Official Draftsperson. In Figure 11, an element "billing server" has been shown. New Figure 11 was obtained by incorporating the billing server in the billing system shown in Fig. 1 based on the descriptions, for example, on page 20, line 34 through page 21, line 3 of the original specification. This amendment is fully supported by the original specification and drawings and no new matter has been added.